

3-A

Thomas Leahy
February 23, 2018

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MASSACHUSETTS - WESTERN DIVISION

C.A.No.: 3:17cv30031

JANETTE HERNANDEZ PAGAN, PPA
F.H., a minor,
PLAINTIFF

VS.

CITY OF HOLYOKE, A MUNICIPAL CORPORATION,
OFFICER THOMAS J. LEAHY, OFFICER JAMES
DUNN, OFFICER JABET LOPEZ
DEFENDANTS

DEPOSITION OF: THOMAS LEAHY

Taken before Roxanne C. Costigan,
Certified Merit Reporter, Notary Public, pursuant to
Rule 30 of the Federal Rules of Civil Procedure, at
the law offices of ACCURATE COURT REPORTING, INC.,
1500 Main Street, Suite 222, Springfield, MA, on
February 23, 2018.

Roxanne C. Costigan
Certified Merit Reporter

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1 were standing and he was kneeling?

2 A. No. We were both kneeling.

3 Q. Okay. And where was Officer Dunn?

4 A. He was on the other side of Mr. Torres.

5 Q. Okay. And can you describe where the
6 cruisers were in relation to where you guys were on
7 the -- next to Mr. Torres?

8 A. The cruisers were behind me.

9 Q. How many cruisers were behind you?

10 A. Two that I know of.

11 Q. Okay. And whose cruisers were behind
12 you?

13 A. My cruiser was first and then the cruiser
14 that Officer Dunn and Officer Lopez came in were
15 behind -- was behind that car.

16 Q. So, they were parked right behind you?

17 A. I believe so, yup.

18 Q. Okay. And do you remember when Jabet
19 Lopez arrived?

20 A. I do.

21 Q. Was he alone in his car?

22 A. No. He was riding with Officer Dunn.

23 Q. Okay. And, so, you saw them both come
24 out of the cruiser together?

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1 A. No.

2 Q. You didn't see them come out?

3 A. No.

4 Q. How do you know they arrived together?

5 A. Because they were riding together that
6 night.

7 Q. Okay. And do you remember the car name
8 and number?

9 A. Car 6.

10 Q. Okay. And what was your car number?

11 A. Car 4.

12 Q. All right. And you had no one with you?

13 A. Correct.

14 Q. And do you remember hearing some chatter
15 on the radio about a gunman potentially on the bridge
16 from south Holyoke and from Holyoke?

17 A. Yes.

18 Q. And the gunman on the bridge apparently
19 had a weapon, correct?

20 A. Correct.

21 Q. And, so, what I'd like it clarify here is
22 the sequencing of events so it's really clear for the
23 record exactly what transpired that night of February
24 8th, 2014. Okay?

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1 A. Okay.

2 Q. All right. So, there were some chatter
3 on the radio about a man that had a gun on the bridge,
4 and what was the name of that bridge?

5 A. The Veteran Memorial Bridge.

6 Q. And that's the bridge that intersects
7 south Holyoke to Holyoke, correct?

8 A. Holyoke and South Hadley.

9 Q. I'm sorry. South Hadley. And, so, that
10 would connect the two towns, correct?

11 A. Correct.

12 Q. And it spans the canal?

13 A. No. The Connecticut River.

14 Q. Okay. And is that Water Street on the
15 Holyoke side?

16 A. That the bridge comes into?

17 Q. Yes.

18 A. That would be North Bridge Street.

19 Q. Does it go into Water Street?

20 A. North Bridge Street turns into Winter
21 Street.

22 Q. Winter Street. Okay. So, what is your
23 understanding in terms of what happened with the man
24 on the bridge that had the gun?

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1 A. What was my understanding of what
2 happened with him?

3 Q. Mm-hmm.

4 A. We encountered that person and then he
5 was refusing to obey our orders, and eventually, we
6 were able to take him into custody and secure the
7 firearm.

8 Q. Okay. So, you were one of the takedown
9 officers for Mr. Zayas who was the man on the bridge
10 with the gun?

11 A. Yes, I was involved.

12 Q. Okay. How many officers took down
13 Mr. Zayas on the bridge?

14 A. Approximately five to ten officers there.

15 Q. And how many cruisers arrived on that
16 bridge to take down Mr. Zayas with the gun?

17 A. I don't know.

18 Q. Okay. So, would it be safe to say there
19 were at least five cruisers?

20 A. Potentially, yes.

21 Q. Okay. And were you assisted by any other
22 Police Departments?

23 A. Yes. South Hadley.

24 Q. And did they come across the bridge and

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1 give you a hand taking him down?

2 A. Correct.

3 Q. Okay. And who was the first person to
4 arrive on the bridge to take down Mr. Zayas?

5 A. The first officer to arrive was Officer
6 Harrison.

7 Q. Okay. And when did you arrive in
8 relation to Officer Harrison?

9 A. Right after Officer Harrison.

10 Q. So, Officer Harrison was there and then
11 you arrived?

12 A. Correct.

13 Q. Where was Officer Harrison located when
14 you arrive?

15 A. He was directly in front of me.

16 Q. Okay. And was he in his cruiser when you
17 got there?

18 A. We were both -- we both arrived
19 simultaneously and exited our cruiser at the same
20 time.

21 Q. Okay. And you parked right behind him?

22 A. Correct.

23 Q. All right. And which side of the
24 Veterans Bridge did you and Officer Harrison park on

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1 to take down Mr. Zayas with the gun that night of
2 February 8th, 2014?

3 A. We parked on the right side of the right
4 lane.

5 Q. Okay. And that would have been facing
6 which direction?

7 A. Towards South Hadley.

8 Q. Okay. And where was Mr. Zayas facing?
9 Was he facing your direction or towards South Hadley?

10 A. He was facing towards us, which would be
11 perpendicular to South Hadley.

12 Q. All right.

13 A. He was facing towards the bridge.

14 Q. Yup. Sure. And, so, when you entered
15 the bridge, from which direction did you enter to go
16 up on the bridge, on Veterans Bridge that night?

17 A. From the Holyoke side.

18 Q. All right. And can you describe what
19 Mr. Zayas was wearing when you first encountered him?

20 A. He was wearing a black hoodie sweatshirt.

21 Q. And did that coincide with the
22 description that you heard over dispatch of a man that
23 had a gun?

24 A. Yes. Correct.

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1 Q. So, dispatch indicated that a man with a
2 gun was wearing a black sweatshirt, correct?

3 A. Yes.

4 Q. And when you went to the bridge, you
5 heard that someone was on the bridge firing a weapon,
6 right?

7 A. Yes.

8 Q. And they were wearing a black sweatshirt,
9 right?

10 A. Correct.

11 Q. And when you got there, that's what you
12 encountered, correct?

13 A. Correct.

14 Q. And do you remember what the gun looked
15 like?

16 A. It was an extremely long silver revolver.

17 Q. How was he holding it when you arrived?

18 A. Straight arm, straight down.

19 Q. And I think -- and I'll paraphrase --
20 there's some reference in the police report that
21 indicated someone made a motion like this, like he
22 might have been a little crazy, in other words, for
23 the record a circular motion by the ear. Do you
24 remember reading that or writing that?

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1 A. I do remember that.

2 Q. Okay. And why did someone write that, if
3 it wasn't you?

4 A. What's that?

5 Q. Why was that written, do you think?

6 A. I don't know.

7 Q. What does that normally signify when
8 someone does that?

9 A. That they might be mentally unstable.

10 Q. Okay. And when you encountered
11 Mr. Zayas, was that your opinion of him?

12 MR. EMMA: Objection.

13 THE WITNESS: Obviously, anyone
14 that's walking towards a group of police
15 officers with a gun in his hand, not listening
16 to us, definitely has some mental issues going
17 on.

18 Q. (By Ms. Liddy) Sure. And when you
19 encountered Mr. Zayas, it was you and another officer,
20 correct?

21 A. There were several officers.

22 Q. Well, I'm just talking about when you
23 first got there.

24 A. First got there, yes.

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1 Q. Yup. Let's just walk through on a time
2 sequence.

3 A. Okay.

4 Q. I want to make sure it's really clear.
5 You arrived after Officer Harrison. Who arrived next?

6 A. I don't remember.

7 Q. A lot of officers?

8 A. A lot of kind of simultaneously.

9 Q. Okay.

10 A. While we're dealing with Mr. Rivera,
11 officers were continuing to flood the area, and that's
12 when we encountered Mr. Zayas.

13 Q. Okay. And you said you were dealing with
14 Mr. Rivera?

15 A. Correct.

16 Q. So, now, that's a third person. Where
17 was Mr. Rivera standing?

18 A. He was on the sidewalk when we first
19 arrived. He is the first person that we encountered.

20 Q. Okay. You and Officer Harrison?

21 A. Correct.

22 Q. When you say we? I want to make sure
23 it's very clear.

24 A. Yes. Correct.

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1 A. He didn't specify.

2 Q. Well, he said, the person; he didn't say
3 there's a gun over here and a gun down the street, did
4 he?

5 A. That's right.

6 Q. Okay. So, the reasonable inference would
7 be a person with a gun was on the bridge, and that
8 would be Mr. Zayas, who you could see beyond
9 Mr. Rivera, correct?

10 MR. EMMA: Objection.

11 MR. JOYCE: Objection.

12 THE WITNESS: According to our
13 dispatcher, there was three people with guns.

14 Q. (By Ms. Liddy) Okay. So, let me ask you
15 this. So, when you got to the bridge, did you pat
16 frisk Mr. Jose Rivera?

17 A. Yes, I did.

18 Q. And did you encounter any weapons on him?

19 A. I did not.

20 Q. So, at that point, you knew that there
21 was one weapon on the bridge with Mr. Zayas because
22 you could see it, it was a long handle silver
23 revolver, right?

24 A. I did not see that gun on the bridge.

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1 Q. Okay. But you did at one point see the
2 gun he had, correct?

3 A. I did.

4 Q. Okay. So, when you first got there and
5 you pat frisked Jose Rivera and he had no weapons, did
6 you call that in?

7 A. I don't believe so.

8 Q. Okay. And what did Mr. Officer Harrison
9 do at that point?

10 A. We both pat frisked him and placed him in
11 handcuffs for our safety. With the potential of a
12 weapon out there, we handcuffed him. And then that's
13 when we encountered Mr. Zayas. So, we brought
14 Mr. Rivera away from the scene into a cruiser.

15 Q. All right. And when you say you
16 encountered Mr. Zayas, that means that you spotted him
17 after you encountered or spoke to Jose Rivera,
18 correct?

19 A. Correct.

20 Q. Did you place Jose Rivera in a cruiser?

21 A. I did not.

22 Q. Was he standing there with you?

23 A. He was.

24 Q. Did you have him sitting down on a curb

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1 three people around?

2 A. Correct.

3 Q. Did you ask Jose Rivera where the third
4 person was?

5 A. I asked just where the person with the
6 gun was. He pointed towards the bridge and said he
7 was on there. At that time, South Hadley was coming
8 across the bridge and they did not locate anyone on
9 the bridge.

10 Q. Okay. So, you were pretty confident that
11 at that point after you talked to Jose Rivera and you
12 knew from dispatch or from sight that South Hadley was
13 also coming across the bridge, that with both people
14 meeting in the middle, you would encounter that
15 individual with the gun, correct?

16 A. Correct.

17 Q. Okay. And at that point, when you were
18 on the Veterans Bridge with all the other officers,
19 including South Hadley, did you see a third person?

20 A. No. The information Mr. Rivera gave us
21 was wrong. There was no person on the bridge.

22 Q. Okay. And did Jose Rivera mention a
23 third person to you or did you ask him about a third
24 person?

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1 MR. JOYCE: Objection.

2 THE WITNESS: I don't remember him
3 mentioning a third person.

4 Q. (By Ms. Liddy) Okay. But you knew from
5 dispatch that there was potentially a third person,
6 right?

7 A. Correct.

8 Q. Okay. And describe for me, if you could,
9 how Mr. Zayas was taken down.

10 A. He approached the officers. We were kind
11 of loosely formed into a semi circle formation and he
12 came within the semi circle and Officer Heredia was
13 able to sneak around a cruiser and get behind him and
14 tackle him.

15 Q. And tackle him. And you did that because
16 you saw that he had a weapon, correct?

17 A. Correct.

18 Q. And you didn't know --

19 A. Well, Officer Heredia did that.

20 Q. Okay. I'm sorry. You're right. Officer
21 Heredia came from behind and tackled him and took him
22 down and then officers surrounded him. Who handcuffed
23 Mr. Zayas?

24 A. I do not know.